

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-11311-JSR**

American Civil Liberties Union v. United States Customs and
Border Protection et al
Assigned to: Judge Jed S. Rakoff
Cause: 05:552 Freedom of Information Act

Date Filed: 12/11/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

American Civil Liberties Union

represented by **Alexia Ramirez**
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V.

Defendant

**United States Customs and Border
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Defendant

**United States Immigration and
Customs Enforcement**

represented by **Casey Kyung-Se Lee**
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Jennifer C. Simon
(See above for address)
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ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|---|
| 12/11/2019 | <u>1</u> | COMPLAINT against Customs and Border Protection, Immigration and Customs Enforcement. Document filed by American Civil Liberties Union. (Attachments: # <u>1</u> Exhibit A: Request, # <u>2</u> Exhibit B: ICE correspondence, # <u>3</u> Exhibit C: CBP correspondence)(Wessler, Nathan) (Entered: 12/11/2019) |
| 12/11/2019 | <u>2</u> | CIVIL COVER SHEET filed. (Wessler, Nathan) (Entered: 12/11/2019) |
| 12/11/2019 | <u>3</u> | RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by American Civil Liberties Union.(Wessler, Nathan) (Entered: 12/11/2019) |
| 12/11/2019 | <u>4</u> | FILING ERROR – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Customs and Border Protection, re: <u>1</u> Complaint,. Document filed by American Civil Liberties Union. (Wessler, Nathan) Modified on 12/12/2019 (jgo). (Entered: 12/11/2019) |
| 12/11/2019 | <u>5</u> | FILING ERROR – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Immigration and Customs Enforcement, re: <u>1</u> Complaint,. Document filed by American Civil Liberties Union. (Wessler, Nathan) Modified on 12/12/2019 (jgo). (Entered: 12/11/2019) |
| 12/12/2019 | | Civil Case Opening Fee Paid electronically via Pay.gov: for <u>1</u> Complaint,. Filing fee \$ 400.00. Pay.gov receipt number ANYSDC-18258254, paid on 12/11/2019. (gp) (Entered: 12/12/2019) |
| 12/12/2019 | | ***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Nathan Freed Wessler. The party information for the following party/parties has been modified: United States Customs and Border Protection; United States Immigration and Customs Enforcement. The information for the party/parties has been modified for the following reason/reasons: party name contained a typographical error;. (jgo) (Entered: 12/12/2019) |
| 12/12/2019 | | CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Jed S. Rakoff. Please download and review the Individual Practices |

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| | | of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions . (jgo) (Entered: 12/12/2019) |
| 12/12/2019 | | Magistrate Judge Barbara C. Moses is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (jgo) (Entered: 12/12/2019) |
| 12/12/2019 | | Case Designated ECF. (jgo) (Entered: 12/12/2019) |
| 12/12/2019 | | ***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Nathan Freed Wessler to RE-FILE Document No. <u>5</u> Request for Issuance of Summons, <u>4</u> Request for Issuance of Summons,. The filing is deficient for the following reason(s): party name on 'as to' docket entry text does not exactly match pleading caption; party name on the PDF 'To' section is not a party of record. Party of record must be listed followed by 'care of c/o' or 'via' party name not of record;. Re-file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (jgo) (Entered: 12/12/2019) |
| 12/12/2019 | <u>6</u> | REQUEST FOR ISSUANCE OF SUMMONS as to United States Customs and Border Protection, re: <u>1</u> Complaint,. Document filed by American Civil Liberties Union. (Wessler, Nathan) (Entered: 12/12/2019) |
| 12/12/2019 | <u>7</u> | REQUEST FOR ISSUANCE OF SUMMONS as to United States Immigration and Customs Enforcement, re: <u>1</u> Complaint,. Document filed by American Civil Liberties Union. (Wessler, Nathan) (Entered: 12/12/2019) |
| 12/13/2019 | <u>8</u> | ELECTRONIC SUMMONS ISSUED as to United States Customs and Border Protection. (dnh) (Entered: 12/13/2019) |
| 12/13/2019 | <u>9</u> | ELECTRONIC SUMMONS ISSUED as to United States Immigration and Customs Enforcement. (dnh) (Entered: 12/13/2019) |
| 12/16/2019 | <u>10</u> | NOTICE OF APPEARANCE by Christopher T Dunn on behalf of American Civil Liberties Union. (Dunn, Christopher) (Entered: 12/16/2019) |
| 12/16/2019 | <u>11</u> | NOTICE OF APPEARANCE by Robert Andrew Hodgson on behalf of American Civil Liberties Union. (Hodgson, Robert) (Entered: 12/16/2019) |
| 12/21/2019 | <u>12</u> | NOTICE OF APPEARANCE by Casey Kyung-Se Lee on behalf of United States Customs and Border Protection, United States Immigration and Customs Enforcement. (Lee, Casey) (Entered: 12/21/2019) |
| 12/23/2019 | <u>13</u> | SUMMONS RETURNED EXECUTED (FOIA CASE). United States Customs and Border Protection served on 12/16/2019, answer due 1/15/2020. Service was made by Mail. Document filed by American Civil Liberties Union. (Wessler, Nathan) (Entered: 12/23/2019) |
| 12/23/2019 | <u>14</u> | SUMMONS RETURNED EXECUTED (FOIA CASE). United States Immigration and Customs Enforcement served on 12/16/2019, answer due 1/15/2020. Service was made by Mail. Document filed by American Civil Liberties Union. (Wessler, Nathan) (Entered: 12/23/2019) |
| 12/30/2019 | <u>15</u> | NOTICE OF APPEARANCE by Brett Max Kaufman on behalf of American Civil Liberties Union. (Kaufman, Brett) (Entered: 12/30/2019) |
| 01/08/2020 | <u>16</u> | NOTICE OF COURT CONFERENCE: Initial Conference set for 2/3/2020 at 11:00 AM in Courtroom 14B, 500 Pearl Street, New York, NY 10007 before Judge Jed S. Rakoff, as further set forth in this order. (Signed by Judge Jed S. Rakoff on 1/8/2020) (jwh) (Main Document 16 replaced on 1/8/2020) (jwh). (Entered: 01/08/2020) |

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| 01/21/2020 | <u>17</u> | ANSWER to <u>1</u> Complaint,. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement.(Lee, Casey) (Entered: 01/21/2020) |
| 02/03/2020 | | Minute Entry for proceedings held before Judge Jed S. Rakoff: Interim Pretrial Conference held on 2/3/2020, Oral Argument to be held on 2/3/2020 re: <u>16</u> Order for Initial Pretrial Conference, Defts I.C.E. and C.B.P. reports due March 3, 2020. (Kotowski, Linda) (Entered: 02/03/2020) |
| 02/18/2020 | <u>18</u> | PROPOSED ORDER FOR SUBSTITUTION OF ATTORNEY. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Tarczynska, Dominika) (Entered: 02/18/2020) |
| 02/18/2020 | | Minute Entry for proceedings held before Judge Jed S. Rakoff: (Oral Argument set for 5/26/2020 at 02:00 PM before Judge Jed S. Rakoff.). (Kotowski, Linda) (Entered: 02/19/2020) |
| 02/18/2020 | | Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 2/18/2020, Case Stay Lifted, (Motions due by 4/23/2020., Replies due by 5/14/2020., Responses due by 5/7/2020). A final pretrial conference will be heard on May 26, 2020 at 2:00pm (Kotowski, Linda) (Entered: 02/21/2020) |
| 02/27/2020 | <u>19</u> | TRANSCRIPT of Proceedings re: CONFERENCE held on 2/3/2020 before Judge Jed S. Rakoff. Court Reporter/Transcriber: Kristen Carannante, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2020. Redacted Transcript Deadline set for 3/30/2020. Release of Transcript Restriction set for 5/27/2020..(McGuirk, Kelly) (Entered: 02/27/2020) |
| 04/13/2020 | <u>20</u> | NOTICE OF APPEARANCE by Alexia Ramirez on behalf of American Civil Liberties Union..(Ramirez, Alexia) (Entered: 04/13/2020) |
| 04/15/2020 | | Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 4/15/2020. Counsel for both sides are present. (tro) (Entered: 04/16/2020) |
| 04/16/2020 | | MEMORANDUM TO THE DOCKET CLERK: The Final PTC in ACLU v. CBP, et al. (19-cv-11311) has been moved from 5/26 to 7/15/2020 at 4:00 pm.(kgo) (Entered: 04/16/2020) |
| 04/16/2020 | | Set/Reset Hearings: Final Pretrial Conference set for 7/15/2020 at 04:00 PM before Judge Jed S. Rakoff. (kgo) (Entered: 04/16/2020) |
| 05/22/2020 | <u>21</u> | MOTION for Summary Judgment . Document filed by American Civil Liberties Union. Responses due by 6/12/2020.(Ramirez, Alexia) (Entered: 05/22/2020) |
| 05/22/2020 | <u>22</u> | MEMORANDUM OF LAW in Support re: <u>21</u> MOTION for Summary Judgment . . Document filed by American Civil Liberties Union..(Ramirez, Alexia) (Entered: 05/22/2020) |
| 05/22/2020 | <u>23</u> | DECLARATION of Alexia Ramirez in Support re: <u>21</u> MOTION for Summary Judgment .. Document filed by American Civil Liberties Union. (Attachments: # <u>1</u> Exhibit A – DHS Policy on Cell Site Simulators, # <u>2</u> Exhibit B – House Oversight Committee Report, # <u>3</u> Exhibit C – Detroit News Article, # <u>4</u> Exhibit D – Plaintiff's Freedom of Information Act Request, # <u>5</u> Exhibit E – CBP Final Response Letter (May 24, 2017), # <u>6</u> Exhibit F – Plaintiff's Appeal of CBP Final Response (June 19, 2017), # <u>7</u> Exhibit G – CBP Letter Responding to Appeal (July 13, 2017), # <u>8</u> Exhibit H – ICE Final Response Letter (Sept. 20, 2017), # <u>9</u> Exhibit I – Plaintiff's Email to ICE (Sept. 20, 2017), # <u>10</u> Exhibit J – ICE Response to Email (Oct. 18, 2017), # <u>11</u> Exhibit K – Univision Article, # <u>12</u> Exhibit L – Conference Transcript (Feb. 3, 2020), # <u>13</u> Exhibit M – CBP Final Response Letter (Mar. 26, 2020), # <u>14</u> Exhibit N – ICE Initial Production Letter (Mar. 4, 2020), # <u>15</u> Exhibit O – ICE Supplemental Production Letter (Apr. 28, 2020), # <u>16</u> Exhibit P – ICE Second Supplemental Production Letter (May 20, 2020), # <u>17</u> Exhibit Q – ICE Third Supplemental Production Letter (May 21, 2020), # <u>18</u> Exhibit R – DHS Letter to Senator Wyden (Dec. 4, 2017), # <u>19</u> Exhibit S – DHS Letter to Senator Franken (Nov. 2017)).(Ramirez, Alexia) (Entered: 05/22/2020) |

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| 06/12/2020 | <u>24</u> | MOTION for Summary Judgment . Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/12/2020 | <u>25</u> | MEMORANDUM OF LAW in Support re: <u>24</u> MOTION for Summary Judgment . <i>and in Opposition to Plaintiff's Motion for Summary Judgment 21</i> . Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/12/2020 | <u>26</u> | DECLARATION of Patrick A. Howard in Support re: <u>24</u> MOTION for Summary Judgment .. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/12/2020 | <u>27</u> | DECLARATION of Steven J. Griffin in Support re: <u>24</u> MOTION for Summary Judgment .. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/12/2020 | <u>28</u> | DECLARATION of Erick Funn in Support re: <u>24</u> MOTION for Summary Judgment .. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/12/2020 | <u>29</u> | DECLARATION of James V.M.L. Holzer in Support re: <u>24</u> MOTION for Summary Judgment .. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 06/12/2020) |
| 06/26/2020 | <u>30</u> | SUPPLEMENTAL MOTION for Summary Judgment . Document filed by American Civil Liberties Union..(Ramirez, Alexia) (Entered: 06/26/2020) |
| 06/26/2020 | <u>31</u> | REPLY MEMORANDUM OF LAW in Support re: <u>30</u> SUPPLEMENTAL MOTION for Summary Judgment ., <u>21</u> MOTION for Summary Judgment . <i>and Opposition re: 24 Defendants' Cross-Motion for Summary Judgment</i> . Document filed by American Civil Liberties Union..(Ramirez, Alexia) (Entered: 06/26/2020) |
| 06/26/2020 | <u>32</u> | DECLARATION of Nathan Freed Wessler in Support re: <u>30</u> SUPPLEMENTAL MOTION for Summary Judgment ., <u>21</u> MOTION for Summary Judgment .. Document filed by American Civil Liberties Union. (Attachments: # <u>1</u> Exhibit A – Letter to Sen. Franken, # <u>2</u> Exhibit B – Stingray Tracking Devices: Who's Got Them?, # <u>3</u> Exhibit C – ICE Cell Site Simulator Policy, # <u>4</u> Exhibit D – 2012 FOIA Response Christopher Soghoian, # <u>5</u> Exhibit E – Wilmington Police Department Invoice, # <u>6</u> Exhibit F – City of Durham Purchase Order, # <u>7</u> Exhibit G – Harris Corp. Kingfish Brochure, # <u>8</u> Exhibit H – Harris Corp. AmberJack Brochure, # <u>9</u> Exhibit I – Harris Corp. Kingfish Product Information and Pricing Sheet, # <u>10</u> Exhibit J – DOJ Cell Site Simulator Policy, # <u>11</u> Exhibit K – DOJ Electronic Surveillance Manual Excerpt, # <u>12</u> Exhibit L – Oakland Police Department Cell Site Simulator Policy, # <u>13</u> Exhibit M – Erie County Sheriff's Cellular Tracking Procedures, # <u>14</u> Exhibit N – Tallahassee Police Department Cell Site Simulator Usage Log, # <u>15</u> Exhibit O – NYPD Over the Air Intercepts Log, # <u>16</u> Exhibit P – Jonathan Mayer Congressional Testimony, # <u>17</u> Exhibit Q – DHS Cellular Threats Presentation, # <u>18</u> Exhibit R – DOJ Letter to Sen. Wyden).(Ramirez, Alexia) (Entered: 06/26/2020) |
| 07/06/2020 | <u>33</u> | REPLY MEMORANDUM OF LAW in Support re: <u>24</u> MOTION for Summary Judgment . . Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 07/06/2020) |
| 07/06/2020 | <u>34</u> | DECLARATION of James V.M.L. Holzer [Supplemental] in Support re: <u>24</u> MOTION for Summary Judgment .. Document filed by United States Customs and Border Protection, United States Immigration and Customs Enforcement..(Simon, Jennifer) (Entered: 07/06/2020) |